



Town of New Windsor

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OFFICE OF THE PLANNING BOARD

WEDNESDAY - JANUARY 14, 2004 — 7:30 PM
TENTATIVE AGENDA

REORGANIZATION MEETING

CALL TO ORDER

ROLL CALL

APPROVAL OF MINUTES DATED: DECEMBER 10, 2004

ANNUAL MOBILE HOME PARK REVIEW:

- a. Silver Steam Mobile Home Park – Rt. 207 (Clark) (from Dec. Agenda)
- b. Brittany Terrace Mobile Home Park – Station Road

PUBLIC HEARINGS:

1. **SANDCASTLE HOMES LOT LINE CHANGE (03-37) NYS RT. 94 (BRADY)**
Reconfiguration of an existing 10-lot subdivision to create an 8-lot subdivision.

REGULAR ITEMS:

2. **WOODLAWN MANOR SITE PLAN (03-17) HUDSON DR. & FOREST HILL RD. (NEW HORIZON)** Proposed 115-Unit Townhouse Project.

CORRESPONDENCE:

3. **CORNWALL COMMONS LLC. – (00-06) Letter requesting 6-month extension of Preliminary Approval granted on August 27, 2003.**

DISCUSSION:

4. QUALITY BUS (ZIRELLI) WEMBLY ROAD
5. ANGELO ESTATES (ROMEO) SUBDIVISION (99-14) SHAW ROAD
6. KATHY NUGENT – SITE WORK – QUASSAICK AVENUE (FROM WORK SHOP)

ADJOURNMENT

(NEXT MEETING –JANUARY 28, 2004)

January 14, 2004

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TOWN OF NEW WINDSOR

PLANNING BOARD

JANUARY 14, 2004

MEMBERS PRESENT: JAMES PETRO, CHAIRMAN
RON LANDER
JERRY ARGENIO
NEIL SCHLESINGER
ERIC MASON

ALSO PRESENT: MARK EDSALL, P.E.
PLANNING BOARD ENGINEER

MICHAEL BABCOCK
BUILDING INSPECTOR

ANDREW KRIEGER, ESQ.
PLANNING BOARD ATTORNEY

MYRA MASON
PLANNING BOARD SECRETARY

ABSENT: JIM BRESNAN
THOMAS KARNAVEZOS

REGULAR MEETING

MR. PETRO: I'd like to call the January 14, 2004 meeting of the New Windsor Planning Board to order. Please stand for the Pledge of Allegiance.

(Whereupon, the Pledge of Allegiance was recited.)

REORGANIZATION MEETING

MR. PETRO: We had our reorganization meeting prior to this meeting and it stands that I am the Chairman, Mr. Argenio is Vice Chairman, Jim Bresnan, who's absent tonight is the Secretary, our Sergeant of Arms is Eric Mason and we're retaining Mr. Krieger as our attorney, Franny as stenographer and McGoey, Hauser & Edsall as the engineers to the planning board.

APPROVAL OF MINUTES DATED: DECEMBER 10, 2003

MR. PETRO: Okay, with that, we need approval of the minutes dated December 10, 2003.

MR. ARGENIO: Make a motion that we approve them as written.

MR. MASON: Second it.

MR. PETRO: Motion has been made and seconded that the New Windsor Planning Board accept those minutes as written for that date. Any further discussion from the board members? If not, roll call.

ROLL CALL

MR. SCHLESINGER	AYE
MR. MASON	AYE
MR. LANDER	AYE
MR. ARGENIO	AYE
MR. PETRO	AYE

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ANNUAL MOBILE HOME PARK REVIEW:

SILVER STREAM MOBILE HOME PARK

MR. PETRO: Someone here to represent this? Okay,
we'll go on to the next one.

BRITTANY TERRACE MOBILE HOME PARK

MR. PETRO: Brittany Terrace Mobile Home Park on Station Road. Someone here to represent that? Can you come forward, ma'am? Mike, has someone from your department been there? Do you have any outstanding comments?

MR. BABCOCK: Yes, we have, Mr. Chairman, and I'm going to give a copy to the applicant right now so she hasn't been aware of these, there's some 911 numbers, I'm reading it for the first time myself, also that they need to comply with, which I'm sure they will. In the past anything they have been asked to comply and they've done it. And there's some minor panel covers missing, some minor items.

MR. PETRO: You feel that they can get them done if we go the one year extension?

MR. BABCOCK: I don't know that they've even been notified. I'll write it up.

MR. PETRO: Mike, there's also a sheet from the fire department, so you have to get ahold of them.

MR. BABCOCK: I just gave them a copy of that.

MR. PETRO: Motion for one year extension. Do you have a check? Did you bring your check with you--I don't have the amount here--for one year extension. Is there a motion?

MR. LANDER: So moved.

MR. ARGENIO: Second it.

MR. PETRO: Motion has been made and seconded that the New Windsor Planning Board grant one year extension to the Brittany Terrace Mobile Home Park. Is there any

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further discussion from the board members? If not,
roll call.

ROLL CALL

MR. SCHLESINGER	AYE
MR. MASON	AYE
MR. LANDER	AYE
MR. ARGENIO	AYE
MR. PETRO	AYE

PUBLIC HEARINGS:

SANDCASTLE HOMES LOT LINE CHANGE (03-37)

MR. PETRO: Reconfiguration of an existing 10 lot subdivision to create an 8 lot subdivision.

Mr. John Atzl appeared before the board for this proposal.

MR. PETRO: This application proposes lot line revision between lots of the previously approved Suburban Builders major subdivision previously reviewed at the 10 September, 2003 planning board meeting and is before the board for a public hearing at this time. The subdivision reduces the number of lots from 10 to 8 with each lot being slightly increased in area. Keep in mind that we had asked the applicant to do that, he did not have to do it, and agreed to do it because obviously, we like less lots and some bigger lots and we appreciate it. Then Mark has some comments, so you want to over it just so everybody, if anybody's here for the public hearing, the board is going to review it then we'll open it up for the public for comment. Go ahead, state your name.

MR. ATZL: John Atzl, A-T-Z-L, I'm filling in for Mr. Brady who's unable to make the meeting tonight.

MR. PETRO: We have storm water layout and design must be finalized, sidewalk must be added to one side of the roadway, applicant has agreed to revise sanitary sewer to provide an easement and branch run to serve existing non-service properties on Route 94. This revision must be finalized on the plan. What's that about, Mark?

MR. EDSALL: The sewer?

MR. PETRO: Yeah, what existing non-service properties? Something around it?

MR. EDSALL: There's three existing buildings being the podiatrist, the Planned Parenthood and the law office that right now have no sewer service. The original design of the sewer extended the sewer up toward 94 which there's no one to serve there. So I reviewed this with Mr. Brady and he's going to talk to the applicant. But generally, they have agreed to turn at the last manhole and provide an easement behind those three commercial buildings and stub the line in so that it gives the Town the opportunity to serve that. They are cooperating again with something we're asking to help fix.

MR. PETRO: The public improvement bond estimate has been submitted. Our office must complete its review, Town Board must subsequently review the amount of the final offers of dedication, title insurance, blah, blah, blah. There, okay. That's just all standard.

MR. LANDER: What are we going to do with the storm water? Where is this water all going to end up?

MR. ATZL: Storm water, actually, it's shown now right now actually being the cul-de-sac goes down from 94 and it's going to be taken through an easement through lot, I think it's through lot 9, eventually end up back out at 94. There's an easement on lot 9 and 12 so anything on the north side of the road is going to be piped and the road will be piped into that municipal system and be diverted around the existing buildings on Route 94.

MR. LANDER: Does that cross the road on 94 or does it head down 94?

MR. ATZL: No, actually, I believe it crosses, I think it crosses 94.

MR. LANDER: So you're putting the water into the state system?

MR. ATZL: Right.

MR. PETRO: Mr. Aranson, do you have sewer service on your property next door?

MR. ARANSON: No, I don't, we have septic.

MR. PETRO: Your access to the sewer service anywhere?

MR. ARANSON: Yes, from 94.

MR. PETRO: I was only asking that just in case we needed to look at getting it over there because they're looking to do something so they have it, we don't need to come through here.

MR. EDSALL: No, if we find that it's a better connection, we can always reconfigure it. We'll check that though just to make sure.

MR. PETRO: You should check it because he's going to have to show an easement before we get it finalized.

MR. EDSALL: Okay.

MR. PETRO: Do you understand what I'm doing there? Do you have anything you want to add?

MR. ATZL: No, that's pretty straightforward, like you said, it was a previously approved subdivision, we're reducing the lot count by two.

MR. PETRO: On the 29th day of December, 2003, the addressed envelopes of the public hearing notices were mailed out. If there's anyone here who'd like to speak for or against this application, be recognized by the Chair, come forward and state your name and address and your concern. Would anyone like to speak? Let the minutes reflect there's no one here who'd like to

speak. Entertain a motion to close the public hearing.

MR. SCHLESINGER: So moved.

MR. ARGENIO: Second it.

MR. PETRO: Motion has been made and seconded that the New Windsor Planning Board close the public hearing for Sandcastle Homes lot line change. Any further discussion from the board members? If not, roll call.

ROLL CALL

MR. SCHLESINGER	AYE
MR. MASON	AYE
MR. LANDER	AYE
MR. ARGENIO	AYE
MR. PETRO	AYE

MR. PETRO: I'd open up the application back to the board members for further comment. Mark, do you have anything outstanding here? Anything else that you want to go over?

MR. EDSALL: No, these are, I had met as a matter of fact with Mr. Brady just to touch base on a couple of these issues, he's having some difficulty with the existing road grades, again, it's not an issue that they have created as a result of this lot line change, the condition was undesirable on the approved plans from years and years ago. So he's trying to resolve that storm water issue. The sidewalks can easily be added, the sewer is an easy revision, the bond estimate he's submitted, I can get that finalized after we know what's happening with the storm water. So the storm water is the only open technical issue.

MR. ARGENIO: The grades of the road and the slopes, do they comply with the current law?

MR. EDSALL: Yes, the difficulty is that there's a culvert crossing Route 94 down near lot 12, the invert of the inlet to that culvert is, let's call it incompatible with the grades on the project and he's having difficulty constructing a closed drainage system in the roadways and discharging to that invert. I don't know that he's quite come up with a solution yet, it looks tougher, so I told him to come up with his best shot and present something for the highway superintendent and myself to look at.

MR. PETRO: Well, I don't know, I think we should wait until we see something before going forward, don't you?

MR. EDSALL: It's your call, I mean, the bottom line you've got an approved subdivision so at worse, they did put in the same type of drainage in the approved subdivision, your call, if you want to see it with a write-off from the highway superintendent, it would probably make sense.

MR. PETRO: So being it's January we're not going to hold you up anyway, not like you're going to start building in the morning.

MR. ATZL: We had the backhoe all ready.

MR. PETRO: Wait two weeks, it won't hurt you.

MR. EDSALL: The bond amount would have to be approved by the Town Board and that's not going to happen until next month's meeting.

MR. PETRO: So we'll see you in a couple weeks, try to get something so we know what's going on.

MR. EDSALL: He's working on it.

MR. ATZL: Thank you very much.

MR. PETRO: Before you leave, yes, I do, before you leave, let's do number 3, one more minute please. Make a motion.

MR. ARGENIO: I'll make a motion to declare a negative dec on Sandcastle Homes lot line change.

MR. LANDER: Second it.

MR. PETRO: Motion has been made and seconded that the New Windsor Planning Board declare negative dec for Sandcastle Homes lot line change on 94. Any further discussion? If not, roll call.

ROLL CALL

MR. SCHLESINGER	AYE
MR. MASON	AYE
MR. LANDER	AYE
MR. ARGENIO	AYE
MR. PETRO	AYE

REGULAR ITEMS:

WOODLAWN MANOR SITE PLAN (03-17)

Mr. Jay Samuelson appeared before the board for this proposal.

MR. PETRO: Proposed 150 townhouse project. Projects involves development of the 71.8 plus/minus acres 115 unit townhouse complex. The application was previously reviewed at the 9 July, 2003 and 22 October, 2003 planning board meetings. And what you're submitting is very conceptual in nature, I think we looked at some other versions. You came in with 130 units I believe at the last meeting?

MR. SAMUELSON: Correct.

MR. PETRO: We had asked you, you were within your rights to have the 115, if you can look over the plan and I guess I had asked you to try to reduce that number and I see you have reduced it from 130 to 115 which just made it spread out more, correct?

MR. SAMUELSON: Yes and we have a little different footprint than we originally had but other than that, we have reduced the units. I can go over that.

MR. PETRO: Why don't you do that and then I'll go ahead.

MR. SAMUELSON: Last time we were here was I believe back in September, as you said, we did have 130 units as per the code, we're allowed 151, we have reduced it down to 115 units. I have met with Mark on this a couple times, we have added along the properties here on Forest Drive, we'd like to put a non-disturbance buffer of at least 50 feet along here and with Mark's recommendation, we're going to put up a 6 foot post and beam fence to designate the 50 foot strip so it doesn't

keep encroaching and encroaching. So we'd like to put that up and probably the limit of clearing will be a lot less but you know the homeowners, they like to move it back.

MR. ARGENIO: So the fence goes on the 50 foot line and the limit of clearing is short of the fence?

MR. SAMUELSON: At the proposed limit of clearing.

MR. ARGENIO: The fence is going in the woods?

MR. SAMUELSON: It's rough to tell because we haven't done any real grading on the site but we're trying to keep it away from the fence. We don't know exactly where it's going to be. We have designed all the roads to be 30 foot wide, they'll be constructed in accordance with the Town specifications. We have put an emergency access out to Cherry Lane that will be a ten foot wide built to private road specs with a locked crash gate on Cherry Lane, only be used for emergency purposes only as a means of secondary access. Our main access will be off Forest Hill Road. We're looking to do a boulevard entrance coming in off Forest Hill Road. What else, the parking, all of these units will have two car garages and 20 to 24 foot wide driveways so in essence, actually, four parking spaces per unit that we're providing, plus we have a small parking lot here near the clubhouse with another 16 spaces. By code, we're required two per unit which is 230, we're looking to provide about 476 parking spots, if you want to count the garages and driveways. We have provided sidewalks along all three interloops for pedestrian access throughout the site.

MR. PETRO: One side only?

MR. SAMUELSON: One side only and I just got some minor comments from Mark I haven't seen.

MR. PETRO: I like your boulevard entrance, which I think we discussed that last time and it really it's a very good idea there because it really helps to give a looped affect to the entire site because now you have at least two ways, if one of the lanes gets clogged up with an accident, plus the Cherry Lane.

MR. SAMUELSON: We only have this one dead-end, it will be four units will be accessing off the dead-end and that's it.

MR. PETRO: You have the crash gate there.

MR. SAMUELSON: Yes, crash gate also.

MR. PETRO: The reason I bring that up the one time we were looking to have access onto Hudson, I think there's an easement in there somewhere.

MR. SAMUELSON: We have 250 foot right-of-ways that go out to Hudson but the dark green area is all DEC wetlands.

MR. LANDER: It was all DEC wetlands when this came in before but my question to you wasn't there an access onto 94, didn't this--

MR. PETRO: He probably doesn't know but you're right, they were going to another time, another applicant was going to buy a house on 94.

MR. EDSALL: They did buy it. They just sold it when they sold this property, I think they sold that separately, I would suspect.

MR. LANDER: That's the only way they got approval, they had to get access onto 94, other than coming out onto Forest Park Road.

MR. PETRO: That plan was much larger than this plan

and also had an access out to, had to go across all the way to Erie and come out.

MR. LANDER: I know plus access onto 94.

MR. PETRO: But there was no, that plan had no access onto Forest either.

MR. LANDER: Cherry either, they were coming out the--

MR. PETRO: It was 94 and Erie was a problem, see the wetlands, that was huge they had to cross.

MR. LANDER: But they got DEC approval for that.

MR. PETRO: They had to give up quite a bit of something else, I forget where it was, this is seven or eight years ago.

MR. LANDER: But that was the problem, we had a lot of opposition about this project, I know it was a lot bigger, but coming out onto 94 at that point in the road.

MR. SAMUELSON: Yeah, Cherry Lane coming out on from Cherry Lane on 94, if you really need to make a left, you're really taking your life in your own hands, that's why we're only providing emergency access only, we didn't want anybody going that way.

MR. SCHLESINGER: Who maintains the road?

MR. SAMUELSON: All the roads within this plan will be privately maintained roads.

MR. PETRO: Going to be an association?

MR. SAMUELSON: Yes.

MR. SCHLESINGER: Including the emergency access?

MR. SAMUELSON: Yes.

MR. LANDER: Let's go back one step further, how many units were proposed first time when they had approval for this project and how many now?

MR. PETRO: 200 and something.

MR. LANDER: Does anybody know?

MR. PETRO: 348 she says.

MS. MASON: Somewhere around there.

MR. SAMUELSON: That was a different owner, different engineer. Our original submission was back in July was the hundred single family with a year revokable easement lot lines, going to be a condo association and that didn't fly too well, so we came back with the multi-family, came back with 130 and per last meeting we had, we made, the revisions were down to 115.

MR. PETRO: What's the permitted count?

MR. SAMUELSON: 151.

MR. LANDER: Has the state seen this?

MR. SAMUELSON: No.

MR. LANDER: Coming out onto 94.

MR. SAMUELSON: DEC or DOT?

MR. LANDER: Well, we're local jurisdiction here but coming out onto 94 we're adding a lot more traffic to that.

MR. SAMUELSON: We're having a traffic study, it's

being done as we speak.

MR. PETRO: Ron, let me bring, I think you had missed the meeting that they were here and we went over that extensively exactly what you just said, not only the access onto Forest which is local, but wanted a study done on 94, the exact point you just brought up because you're adding 115 at that point. Normally, we wouldn't have to send that there, we thought it was a great idea and he's doing a traffic study but they have excellent sight distance at that point.

MR. SAMUELSON: We did meet with Mike Kroll and Mark out at the site to go over the issues.

MR. SCHLESINGER: What do you mean by a locked crash gate? Isn't this a little inconsistent?

MR. SAMUELSON: How do I explain this?

MR. EDSALL: Basically, a gate that the fire department has the access keys or they can cut the lock, it's called a crash gate but it's locked.

MR. SCHLESINGER: Any emergency vehicle?

MR. EDSALL: Yes, any emergency vehicle.

MR. BABCOCK: Or anyone with bolt cutters.

MR. SCHLESINGER: Doesn't make sense, you have an emergency, you have an emergency.

MR. SAMUELSON: It's called a locked gate, take out the word crash.

MR. SCHLESINGER: Who's got the key?

MR. PETRO: Keep in mind if they didn't have it, it's still a crash gate, you can crash through the gate.

MR. SAMUELSON: Just going to be a couple posts and gate, if they really had to blow through, they would.

MR. LANDER: In the wintertime, you're going to pile snow against it and nobody is going to be able to use it.

MR. PETRO: Okay.

MR. LANDER: Is there going to be any upgrades to Forest Hill Road?

MR. SAMUELSON: When we were out at the site walk, it was requested that a left turn lane be added to Forest Hill and it appears that there's adequate pavement already, all we have to do is stripe it out but that would be the only improvement.

MR. LANDER: How about the drainage, where is all the water going to end up because I know right behind all these houses naturally you know the same thing, they have a big drainage problem, especially when it gets to that where your road's going to come out onto Forest Park Road.

MR. SAMUELSON: We had that discussion, we're going to try to do all of our storm water management in the pond back here by Cherry Lane. We've had discussions with Mark, there are some problems as you go through here and there are some problems as you go down here and on the other side of Route 94 so we're working on it with Mark, what we're actually going to do.

MR. LANDER: Especially the houses that front 94 that are, that have road frontage on 94 to the north of that road, there's a lot of water just on the other side of north side, there was a lot of water, still a lot of water back there, the Town's been working on that drainage too and cause I've talked to a lot of those

people there, they get flooded out not only the other side of 94, on this side.

MR. PETRO: Applicant is aware that there is a water moratorium and although we'll review this and we can go through the entire process, you will not be issued any building permits until the water moratorium is lifted, whenever that maybe. Does the applicant know that?

MR. SAMUELSON: Can't, technically can't approve it even if we're in district still subject to the moratorium?

MR. PETRO: Yes, no extensions.

MR. SAMUELSON: This will be a service, wouldn't be an extension?

MR. EDSALL: The health department looks at this as being an extension. DEC looks at it as a connection but health department it's the reverse.

MR. PETRO: Okay, a lead agency coordination letter was issued for the project, 29 October, 2003 the board should discuss responses with the secretary, has there been any?

MS. MASON: I had a response back from DOT, they left it up to you.

MR. PETRO: Anything else other than that?

MS. MASON: That's the only one.

MR. EDSALL: We're clearly passed the 30 days, so you can assume lead agency. You've got a storm water study on the way and traffic study, I don't know if you need anything else.

MR. PETRO: Motion for lead agency.

MR. LANDER: So moved.

MR. ARGENIO: Second it.

MR. PETRO: Motion has been made and seconded that the New Windsor Planning Board declare itself lead agency for the Woodlawn Manor Senior Project or Forest Hills Drive. Any further discussion from the board members? If not, roll call.

ROLL CALL

MR. SCHLESINGER	AYE
MR. MASON	AYE
MR. LANDER	AYE
MR. ARGENIO	AYE
MR. PETRO	AYE

MR. PETRO: I'm not going to, we're definitely going to have a public hearing but I don't want to schedule it yet because I think you have so much work to do.

MR. SAMUELSON: We want to come back and show you the new layout before we provide any further compete--

MR. PETRO: You have a copy of all Mark's comments?

MR. SAMUELSON: Yes.

MR. PETRO: I think you can just frankly just take care of those and then come back again. Actually, does any board member have any anything they want to discuss before we go to Mark's comments?

MR. LANDER: Is this going to be phased or all done at one time at this point? You don't know?

MR. SAMUELSON: At this point, I don't really know, most likely but at this point, I can't answer that for

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sure.

MR. PETRO: Thank you for coming in.

CORRESPONDENCE:

CORNWALL COMMONS LLC (00-06)

MR. PETRO: I have a letter. "Dear Chairperson Petro and Board Members: I'm writing on behalf of Cornwall Commons, the applicant, to form a request granting extension for preliminary approval for the above-referenced subdivision granted by your board." John C. Cappello. Does anybody have any problem with that? Mark, you don't have a problem?

MR. EDSALL: No, they've got a lot of issues they're working on.

MR. ARGENIO: Where is that?

MR. PETRO: Cornwall Commons off 9W Forge Hill Road. All right, motion for six month extension.

MR. ARGENIO: So moved.

MR. LANDER: Second it.

MR. PETRO: Motion's been made and seconded that the New Windsor Planning Board grant 6 month extension to the Cornwall Commons LLC. Any further discussion from the board members? If not, roll call.

ROLL CALL

MR. SCHLESINGER	AYE
MR. MASON	AYE
MR. LANDER	AYE
MR. ARGENIO	AYE
MR. PETRO	AYE

DISCUSSION:

QUALITY BUS

Mr. Steven Zerilli and Mr. Will Popowick appeared before the board for this proposal.

MR. PETRO: Where is Quality Bus? Where is it?

MR. ZERILLI: 207 Wembly Road.

MR. BABCOCK: The old Granger building.

MR. ZERILLI: As you face the building on the right-hand side.

MR. PETRO: All the yellow school buses.

MR. ZERILLI: As briefly as I can, let me tell you why I believe our reason for being here tonight is and then you'll correct me when I go astray. Quality Bus has occupied the premises in the building for approximately three years. They are a distributor of school buses and other vehicles for several manufacturers. And in connection with the selling and distribution of the buses, they are required by their corporate charter and by the manufacturers they represent to have certain accreditations or qualifications, among them being a New York State Repair License which gives them the right to do the inspections on the buses before they deliver them to their customers.

MR. PETRO: What zone is it, Mike?

MR. BABCOCK: PI.

MR. ZERILLI: And this has been ongoing since they occupied the premises, they went and obtained all the necessary accreditations, licenses and permits. Sometime during the summer of 2003, someone at the Town

apparently became aware of the possibility that Quality Bus was conducting a repair business out of these premises.

MR. PETRO: Probably the fire inspectors.

MR. ZERILLI: The genesis of the problem actually is that the New Windsor Dial-A-bus folks who apparently normally have their buses repaired at West Point Tours actually contacted or attempted to contact Quality Bus to have repairs done on one of the Dial-A-Bus vehicles. And at that time, that came to the attention of the Town administration and there seemed to be a question as to whether or not Quality Bus was actually operating a vehicle repair business there which in fact is not the case. However, in order to clarify exactly what was going on, the inspectors were apparently asked to go and visit the facility and talk with the tenant subsequent to which I had some conversations with Mr. Babcock and with Mr. Edsall. We submitted at their request a building permit so that we could start the process to I guess come back before the Town and clarify the issue of the use there and make sure that there was no problem as far as the Town was concerned with the use and to clarify this issue of despite the fact that they're required to have the license for the repair facility, they are in fact only doing work with respect to the buses, they distribute their own buses if you will or inventory and they're not conducting a repair business there, per se, for off the street business, they're not soliciting repairs from the general public or from the business community or whoever. So we went back before the workshop session with Mr. Edsall and Mr. Babcock earlier this year, this fall, to clarify what was being done there, making sure there are no issues with regard to code or fire code violations and we were asked to come back before the planning board to essentially seek your approval again if you will or to clarify the use.

MR. PETRO: I can understand the whole thing. Mike, is your department going to have to give them a letter?

MR. BABCOCK: Yes.

MR. PETRO: That's the problem?

MR. BABCOCK: Not today but when this license comes up, we do it with every other motor vehicle--

MR. ARGENIO: Excuse me, Mike, the Department of Motor Vehicles license inspection station license not DOT?

MR. EDSALL: Inspection and Repairs.

MR. BABCOCK: Yes.

MR. ARGENIO: It's Department of Motor Vehicles.

MR. BABCOCK: Department of Motor Vehicles asks them when they go to renew to give them a letter from the Town which we write and tonight if this board feels fit in doing that, we'll put tonight's date on it saying that they received approval to be there, exactly the wording what it is I'm not sure, and then they get their renewal of their license. We had thought, Jim, that they were actually a motor vehicle repair shop because they came to me.

MR. ARGENIO: That would be a problem.

MR. BABCOCK: That is a problem.

MR. EDSALL: Based on the workshop Mike and I had set up pretty much the criteria that it is new vehicle pre-delivery preparation and diagnostics for any warranty work that may come up after a new vehicle is sold and comes back on a warranty claim issue. It isn't repairs of vehicles that are sold off warranty, it's something that's new and if it has a problem,

comes back in for evaluation and it may get sent out to be repaired someplace else, but if the record is clear that's all they're doing, it's up to you to say yes.

MR. PETRO: That's my question, what I want to understand is are you the attorney for this gentleman?

MR. ZERILLI: No, I'm the building owner.

MR. PETRO: The problem, keep in mind whatever this board does, if the Town issues anything to, it goes to the property, it's not going to you, it's going to the section, block and lot number of that piece of property. The reason I bring that up is once you receive this letter I don't know how he's going to word a letter that's saying that you can have this repair in, this inspection and repair on that site which the law says doesn't go there, the PI zone does not allow it so he has to word it that it's tailored to your needs, you can sell it to me tomorrow and I want to start fixing somebody else's bus and somebody else's go-cart, whatever I want to do, how are you going to do that? I don't want to put you on the spot.

MR. SCHLESINGER: Can I just ask a question first? When you sell a vehicle, do you issue an MV-50?

MR. ZERILLI: Yes.

MR. BABCOCK: I think, Mr. Chairman, we have done this in the past that they're here tonight, they're on record saying, Steve has told me that he, as the owner of the building, does not want a repair shop there and I explained that to these gentlemen if once we give them approval anybody can move in there and be a regular repair shop. He doesn't want that and I believe that he doesn't want that. I would believe that he would be in violation of what he's saying tonight, if he did that, and we would violate him for that.

MR. EDSALL: Maybe the answer is and Andy, tell me if this is the approach that would hold up that we get a letter from the applicant acknowledging that this is an approval they're requesting specific to this applicant, specific to the very limitations that are on the record tonight and that if this applicant leaves that establishment, that temporary approval expires and that any other use would have to come back in for approval and it would be the applicant that would go on record acknowledging that and they would effectively be disclosing that they have no other rights.

MR. PETRO: I don't think that we're opposed to that either, I'm just trying to work within the framework of the law.

MR. EDSALL: I'm trying to avoid that being a precedent.

MR. PETRO: I'm not trying to cause you problems, I'm already trying to figure out as Neil just alluded to and I knew where he was going how are you issuing MV-50s in a PI zone? It's very interesting.

MR. SCHLESINGER: Jimmy, there's a lot more to it involving Department of Motor Vehicles that I think has to be discussed, I mean, are we going to come up with a solution this evening or just discussing this now?

MR. POPOWICK: If I may, our dealer license is actually out of our corporate headquarters in Haverstraw, New York, so the MV-50s are actually issued from that particular--

MR. SCHLESINGER: That could be another motor vehicle issue also because the MV-50s are really supposed to be on the site of where the vehicles are also but these are all things we need to discuss. My personal feelings on it are that if you sell something, you

should have the right to repair it. But there's a lot of things in different agencies, us being one and Department of Motor Vehicles being another, and I think there's a couple of fingers pointing at each other and I think we need to clarify them.

MR. ARGENIO: Which fingers?

MR. SCHLESINGER: For instance, he issues an MV-50, he can issue an MV-50 for any vehicle, not only his buses, just opens the door to either something like you're trying to, you suggested a solution for it, but somebody else comes in, they're in here next year then it's either grandfathered in or I understand that--

MR. EDSALL: Temporary approval.

MR. SCHLESINGER: Motor Vehicles does not put limitations on their paperwork, an MV-50 is good for any vehicle. He's working on his buses and we know that and he knows that, what happens now we see, you know, a jeep in there being serviced or whatever it is, then who polices it and how is it done? And I think that there's a conflict in the way our thinking is or at least my thinking and the Department of Motor Vehicles, you know, guy sells a bus, should be able to service it.

MR. BABCOCK: Just keep one thing in mind, they have been there for some three years, we didn't even know they were there, they came in, Bill Helmer came in.

MR. SCHLESINGER: The other issue is is that the Motor Vehicle Department is asking for a letter from us saying that they're allowed to sell vehicles in the right zone and everything, there office is in Haverstraw and they're located here, that's a little conflict with the Department of Motor Vehicles. And evidently, that may have come back to us in the sense that it was okay in Haverstraw, but it's not okay in

New Windsor.

MR. ARGENIO: I don't want to become the enforcement arm of the DMV.

MR. PETRO: I'm going to end it and do it very simply. I would suggest that this board, I want to hand this back over to the building department and Mark Edsall take care of it. I'm not making a decision because I can only tell you that our decision will not be where I would really want to be comfortable with. So you take care of it in the building department. Let the building department take care of it and all the motor vehicle and all that stuff, I don't want to go there, not that you're wrong, I want Mike to take care of it.

MR. BABCOCK: I think we can.

MR. ARGENIO: So you have to draft a letter that he can enforce.

MR. PETRO: That's it and I thank you for coming in.

ANGELO ESTATES (ROMEO) SUBDIVISION (99-14)

Stephen Reineke, Esq. and Mr. Robert Biagini appeared before the board for this proposal.

MR. PETRO: I'll read these at the appropriate time. Just briefly because I know this is a very detailed thing, can you just bring the rest of the members, go over it but don't be real detailed, I don't want to go until 12 o'clock.

MR. REINEKE: My name is Steve Reineke, I'm here with the applicant, we're their attorneys. And the easiest way to do is this is to show two different maps, this is the subdivision map that was originally or actually, we really came before this board back in '99 showing, can you see here, the entire parcel called for a proposed three lot subdivision 1, 2, 3, back two lots coming off a proposed cul-de-sac. At the time this was pending, this property went under contract, new parties by the name of Romeo purchased, they entered into an agreement acknowledging that the subdivision was pending and that following, you know, during the course, subdivision approval was obtained, they would, if they acquired title before the subdivision was completed, it would be in two parts, the residential parcel and the balance residential parcel, what they were going to put their mortgage on and the balance, the part that was pending for future subdivision.

MR. PETRO: How are these lots created in the first place? I already know the answer but just state it for the record.

MR. REINEKE: The overall parcel, this is the parent parcel, sort of like funny looking arrowhead coming in, the dwelling which currently exists and is on what was originally proposed lot number 1 was built pursuant to a building permit and the entire property was conveyed to Romeo in mid March, late March of 1999. At that

time, the Romeos executed a deed back to Highview which was the original parent parcel owner for the parcel, out of the parent parcel that did not include their lot.

MR. PETRO: How did they create that lot?

MR. REINEKE: Deed only.

MR. PETRO: It was never anything before the planning board, the planning board did not do a subdivision or lot line change?

MR. REINEKE: There was no approval by the planning board. This was the lot that was part of the three lot subdivision.

MR. PETRO: So we do not basically have a legal subdivision as far as the planning board is concerned.

MR. REINEKE: That's correct.

MR. PETRO: By deed only?

MR. REINEKE: That's correct.

MR. PETRO: What would you like to have done, obviously, Mr. Biagini wants his piece of property, he wants the deed back to him.

MR. REINEKE: They have that deed.

MR. PETRO: He has the deed but still not a legal parcel?

MR. REINEKE: That's correct, what we would, what we have before the board and I had asked our engineer surveyor to put together and I'm not even sure that this did, this one came to the board, I know I sent it to Andy, I don't know if this latest map had come to

the board, it's the one that's dated, this doesn't carry a revision date on it. Mark, would you recognize if you looked?

MR. EDSALL: Probably compare it to Myra's.

MR. EDSALL: So it is the same one that the board is looking at now.

MR. REINEKE: So the board has seen this.

MR. LANDER: Well, no, we haven't seen this.

MS. MASON: It's in the office but it hasn't been reviewed.

MR. LANDER: We're seeing it now.

MR. PETRO: What you really would need to do is to come before this board for a legal subdivision.

MR. REINEKE: Yes.

MR. PETRO: In order to do that, if, evidently, you need to have permission to do that on this piece of property which who is the record owner at this time?

MR. BIAGINI: We are, Highview Estates.

MR. REINEKE: Highview Estates.

MR. PETRO: Explain to me why the proxy is needed for Mr. Romeo to come forward? I have a couple matters I want to get to the bottom of this anyway, not that I think we're going to solve it, I think it's going to be resolved in court, but I want to learn as much about it. You have a deed to the property, the entire parcel and you have a deed?

MR. BIAGINI: Yes.

MR. ROMEO: Yes.

MR. REINEKE: No, no. To clarify, we do not have a deed to the entire parcel.

MR. PETRO: Not the one that you sold to him, you're not disputing that part?

MR. REINEKE: Yeah, he's the owner in fee, no question of the original lot number 1 shown on the map that's up there as the existing dwelling lot, correct.

MR. PETRO: Your name?

MR. ROMEO: Angelo Romeo.

MR. PETRO: You don't mind helping us out?

MR. ROMEO: No.

MR. PETRO: Just let me think for a second. You're saying you have a deed to the entire parcel?

MR. ROMEO: That's correct.

MR. PETRO: Not just where you live but the entire parent parcel?

MR. ROMEO: That's correct, yes.

MR. REINEKE: That's correct, a deed was given to him in 1999 for the entire parcel, that's accurate.

MR. PETRO: You were supposed to deed back to Mr. Biagini the parcel that you didn't live on and you didn't do that?

MR. ROMEO: No, we did not do that.

MR. REINEKE: There's a filed deed.

MR. ROMEO: We did not sign any papers over to Mr. Biagini, looking for us to do that but we ran into a septic problem.

MR. BIAGINI: But that was corrected.

MR. ROMEO: Still to this date there's still unresolved issues.

MR. PETRO: Before we go any further and get into legal stuff, let me ask you something, just trying to, there's no way that you can resolve this with him? Your septic system was fixed, he's saying it's fixed, right?

MR. BIAGINI: Right, we did fix it.

MR. ROMEO: They did and it wasn't properly done, I just installed--

MR. BIAGINI: I wasn't aware that there was any additional problems after the new system was in. I was never notified of that after the second system was put in, I thought it was all taken care of.

MR. ROMEO: No, it's not taken care of.

MR. PETRO: If it was taken care of, would that resolve anything to make you happy enough where you can sign, so he can come in and get a proper subdivision?

MR. ROMEO: If it's taken care of, not a problem.

MR. PETRO: Why don't you try and resolve that? You're just learning of it now?

MR. BIAGINI: Yes, we did as he will tell you, we did put another system in.

MR. ROMEO: And it failed.

MR. BIAGINI: It's still failing to this day?

MR. ROMEO: No, I just put a system in, the building department is fully aware of the new system I just put in this past summer.

MR. BIAGINI: Is the system is working now?

MR. ROMEO: The system is--

MR. PETRO: Adequate maybe?

MR. EDSALL: So that would be the third system?

MR. ROMEO: That's correct. What happened was we moved in and we're running water and we noticed pooling at the end of the driveway and we got a guy to come in and try to perc it and at the time, it didn't perc properly or whatever and Biagini decided he wanted to put a raised bed in and that's what we did, we put a raised bed in and it was installed.

MR. PETRO: At your expense?

MR. BIAGINI: Right.

MR. ROMEO: And it wasn't installed properly and it failed again.

MR. BIAGINI: I wasn't aware of that.

MR. PETRO: So let's not keep going over the same thing. What I'm trying to get to is that that is something that would satisfy him, would release your lot, do you feel like there's any common ground you can get together?

MR. BIAGINI: He says it's fixed, working now. What--

MR. PETRO: Maybe he wants to be reimbursed. I don't want to sit here and figure it out.

MR. BIAGINI: Whatever he's happy with.

MR. PETRO: We're not going to get anywhere. I'm going to say I can't do anything, Andy's going to tell me it's out of your hands until you have a proxy. He's revoked the proxy with this letter that he gave you in 1999 which we cannot use. Andy's already informed me that we're not going to use it in any way, shape or form. Therefore, it's just to me it's kind of like in limbo, it's like one of us, neither one are going anyway try to get it together and get it resolved. If it doesn't and you want to appear back before the board and we'll give you a final decision, I'll let Andy think about it more and go from there. I just don't see anything that we can do. I don't think it's a planning board issue at this point as far as I can see, I think that you should try and get it resolved. Is there any hope for that or not, Mr. Romeo?

MR. ROMEO: Absolutely. I'm sorry, who's this gentleman?

MR. REINEKE: My name is Steve Reineke.

MR. ROMEO: With Levinson?

MR. REINEKE: Yes.

MR. ROMEO: My attorney contacted Levinson and made them aware that the system did fail, so we have that on record. I don't know what Mr. Biagini is saying about the system being, not knowing the system failed. I mean, he's fully aware of it. We have been trying to do this and it's been in the attorneys' hands since probably September of '99.

MR. PETRO: You built the house, he's got to have a septic system, go over and take a look at it, try to do something. We're not going to get anywhere with this, we're really not, I think it should be resolved because if it doesn't go here, it's going to go to court and you're both going to be spending money up the wazoo.

MR. BIAGINI: Again, this is the first time I'm hearing it.

MR. EDSALL: I think your suggestion is that they, now that apparently Bob has some new understanding of the hurdle, maybe you can leave tonight and you can try to work out--

MR. REINEKE: Settlement. I'm sure we can. Just so I'm clear, there's a third system that went in that was inspected?

MR. BABCOCK: It was my office, I didn't, personally I didn't go out there. I did go out one time.

MR. EDSALL: There was a permit obtained for the third system?

MR. ROMEO: Absolutely.

MR. EDSALL: So there should be a record that the third system went in.

MR. REINEKE: And the third system is working? I just want to be clear while we've got everybody here.

MR. PETRO: He's saying that it's adequate at best.

MR. ROMEO: Let's put it this way, I can't use my washer and dryer, I can't use a washer, I have also tried to put in a dry well and that's not working, it just froze.

MR. PETRO: Do you remember what the perc was there out of curiosity?

MR. ROMEO: It didn't.

MR. PETRO: Like a half hour perc or something?

MR. ROMEO: It didn't, an hour and nothing moved.

MR. EDSALL: Another issue which they should be aware of is that this application at best is surviving as being considered an active application. The zoning has changed. If this application doesn't move forward and isn't active and the board determines it not to be active, the lot can't be recreated because it doesn't meet zoning.

MR. PETRO: Three years from October 3, 2001, so you still have time, just that it just can't go forever.

MR. EDSALL: I'm just suggesting that there's some, there's a time clock here, that's important.

MR. ROMEO: The property itself is extremely wet, the whole back of the property remains wet right through the, I mean, the middle of the summer it remains wet.

MR. EDSALL: One of the things that they might be able to do--

MR. ROMEO: There are some issues on the property.

MR. EDSALL: Look at the possibility and we have run into it in properties in the area of putting in intercepting drains, curtain drains possibly to intercept ground water that may be affecting your sanitary system, he's familiar with that.

MR. PETRO: That wouldn't be a big expense but that's a

very good idea, Mark.

MR. EDSALL: Well, I'm hearing that they might of tried that already.

MR. ROMEO: We have, Biagini's tried that and I've also tried that.

MR. REINEKE: I've played on the soccer fields and they were dry and they're lower.

MR. PETRO: What do you think? Why don't you try?

MR. BIAGINI: Whatever he wants me to do. I have no ax to grind, whatever he wants we'll do it, we'll do it but he bought his house with one acre of property and, you know.

MR. LANDER: And a working septic system.

MR. BIAGINI: And the other three belongs to us, I mean, we pay taxes on it.

MR. REINEKE: The practical, as we do understand it, there's an easy way to resolve it and a legal way, the legal way is good for me cause I've got two kids in college, but it sometimes is a little longer as well.

MR. PETRO: Makes sense for both of them, I think he wants to live in his house, be able to flush the toilet and he wants to build the house over there.

MR. LANDER: Use the washer.

MR. PETRO: Why don't you look at it and get back to me. Can you do that?

MR. BIAGINI: Sure.

MR. REINEKE: We can do that.

MR. LANDER: Your office was out there, they inspected that?

MR. BABCOCK: Yes, actually, the engineer that designed it would have inspected it also the third one.

MR. ARGENIO: It's just for this reason that I think about three years ago it started in the west end of this Town from now on your office, Mark, witnesses or does the percs.

MR. EDSALL: We don't do them, we witness percs because there's just too many.

MR. ARGENIO: Expecially in the west end of Town, this is exactly why we do that.

MR. LANDER: Get back to my question, your office inspected that?

MR. BABCOCK: I can't say that for sure.

MR. ROMEO: Yes, Lou was out twice.

MR. BABCOCK: I don't know that for a fact.

MR. LANDER: He inspected the laterals being put in?

MR. ROMEO: It's a raised bed.

MR. PETRO: If they work it out and he's very happy, he's using his washer and dryer, Bob comes back in with the proxy from this gentleman to represent the balance of the property, we don't have a problem with going forward?

MR. KRIEGER: If they have a proxy, that's correct.

MR. PETRO: A current proxy.

MR. LANDER: Must be an awful lot of water for that raised bed to fail.

MR. PETRO: Mr. Romeo, I think you need to be fair to a point, as long as he's working with you and trying to do something, you know.

MR. BIAGINI: That's not going to happen, you know, he will say he is here but that's, I just don't believe it's going to happen.

MR. REINEKE: You didn't do it, who was the engineer that did the third system?

MR. ROMEO: I don't recall. It's on record.

MR. BABCOCK: Yeah, I'm sure we have it on record.

MR. REINEKE: Maybe we'll touch base with him.

MR. PETRO: If it doesn't happen and you can't get anywhere, then you call this gentleman back up and just do what you've got to do, that's all, I would try to work it out. I don't see anybody winning, I'm not trying to keep the kids out of college, but I don't see anybody winning by just taking thousands of dollars from both of these fellas for no reason.

MR. REINEKE: It's certainly worth a try because we do have alternatives but this is the simpler of the alternatives, no question about it.

MR. PETRO: Give it a shot, you can come back in two weeks or a month or whatever. Thanks, guys.

KATHY NUGENT - SITE WORK

MR. EDSALL: I'm not quite sure if we asked her to come or just talk about it. We're, I guess we're talking tonight about her property, I don't know what street number it is.

MR. BABCOCK: Next door to ABC Pizza.

MR. EDSALL: Second lot down.

MR. LANDER: Behind the chiropractor or right behind the pizza place?

MR. BABCOCK: Between ABC and Cumberland Farms.

MR. EDSALL: Right. Mrs. Nugent wanted to pave and restripe her parking lot. It was suggested that she might want to have a plan before she paves so she knows that the pavement layout works.

MR. LANDER: Didn't they do that?

MR. LANDER: She paved anyway but repaved all the areas that she says were paved already, so to the best of our knowledge, I guess that's the case.

MR. LANDER: What seems to be the problem?

MR. EDSALL: We just want to verify that it is acceptable with you folks that Mike and I work with her on the striping layout so that it meets the current code as far as handicapped parking and spaces, the size of the spaces, you don't need anything other than putting that in her file, do you need an application for restriping and repaving?

MR. LANDER: No. How about the drainage, that all runs to the road?

MR. EDSALL: Our initial contact was I wouldn't do anything until we had some type of a design but said she was going to repave what was paved already, doesn't make anything better, doesn't make anything worse, so if that's okay we'll work with her.

MR. ARGENIO: I'll take this one. You guys work it out amongst the two of you, whatever you guys come up with is good with us.

MR. EDSALL: Thank you.

DISCUSSION

MR. ARGENIO: Mark, this is I think kind of towards you, I think that when all these condos that are popping up, what's the one we had next to RPA?

MR. PETRO: Windsor Crest.

MR. ARGENIO: RPA in front of us and happening now condos on Forest Hills Road, I think that and I don't know if we can do it or not, I know to a great extent this is regulated by the Attorney General, I think that it's important that we don't get ourselves into, please hold your laughter for my pointing out the obvious, another situation like Windsor Crest, I think it's pretty shotty that that development never got top course and those people are enduring that hole project with binder. I think that in the future, unless it did get topped and trimmed out, I'm not aware of it, I think that in the future, those people are going to continue to have to endure that shotty, crummy road network in there for a good long time.

MR. PETRO: Ronny worked hard on it.

MR. LANDER: Let me tell you the guy that built that place there--

MR. ARGENIO: Mike Gervis.

MR. BABCOCK: Mike Landau, Mike Gervis, every time one got in trouble, they switched it over.

MR. LANDER: They're still paying taxes on the property.

MR. ARGENIO: I don't understand if they're not developing the, I don't understand why they're not developing it. My footnote is I don't want to kill you guys with this man, we've got to make sure that these

things, we have enough bond money or whatever the heck it is we need to do because it skips and jumps on us, we want to cover it.

MR. BABCOCK: That was before the time, before all these bonds and all the stuff came into place.

MR. ARGENIO: Predates me.

MR. BABCOCK: It was called Hilltop and called something else and it started a long time ago.

MR. LANDER: It started in '87.

MR. BABCOCK: We didn't get private improvement bonds, we did, when we and Mark got involved and said hey, you guys don't have enough, if you want to go further, you want to get permits, you have to get, put up bonds, we did get \$175,000 bond.

MR. EDSALL: Famous saying learning from your mistakes, we saw what was missing in the law as a result of some of those developers, we fine tuned it.

MR. BABCOCK: I would hope with our standards today that that would never happen.

MR. ARGENIO: Again, okay, and like I said, predates me and with all these popping up all over the place, I felt the need.

NEW WINDSOR FIRE DEPARTMENT

MR. PETRO: We have something else I have to go over. This is from Bloom and Bloom, this was the, for the New Windsor Fire Department, they're looking for an exemption from the zoning regulations. I guess they don't want to come to a planning board, they feel that they're exempt which I believe they possibly are. I believe they're going to review this.

MR. KRIEGER: I just received those materials Monday night, I looked at it preliminarily yesterday.

MR. PETRO: Let me tell you what I told Mr. Rogers and members of the New Windsor Fire Department. I said they may be exempt, they may be fine, that could be true, I felt that it would still be the right thing to do to appear before the planning board with a set of plans and go through due process which would not take them a long time, have there public hearing, let the people know what's going on that live across the street and go from there. Evidently, that fell on deaf ears, that was, and that was only my opinion. I spoke to Mr. Bloom, we had a meeting with Mr. Meyers, Mr. Bloom and they were not opposed to that idea. So maybe they're looking for direction from you for some reason and to your opinion, I think your opinion when you do all your homework and you read it over thoroughly, you're going to find out they probably are exempt to the letter of the law.

MR. KRIEGER: Well, I've looked at it preliminarily, I do have some questions with that. First of all, apparently, what they're looking for is some sort of declaration by this board that they're not subject to the zoning regulations of the Town. I have my initial problem that I'm not sure this board has jurisdiction to say to somebody that they are exempt from the law. And I'm not sure that such a declaration on the part of this board is legally binding, frankly, on anybody

else. So I have a little problem with what they're asking for now or who they're asking, why the planning board should be involved. That's my first problem. My second problem is their whole argument is based on basically governmental units being exempt from the zoning regulations, sort of it's my football, so I get to play quarterback. The government agencies don't get to, they make the rules, they don't have to go along. Well, the problem I have legally speaking is the volunteer fire department, what does this fall under, is this a governmental agency, it's in the law, it's sort of a hybrid, it's a public corporation, I'm not clear that this is an agency that falls under specifically under this exempts. This is problem number 2. Problem number 3 is I don't see how this board can make a determination even if it lies within its jurisdiction and my first question somehow resolved how can this board make a determination without holding a public hearing. Now, I understand from the standpoint of view of the fire department they may not be attractive to them to hold a public hearing but from the standpoint of view of this board, I think what it is being asked to do as I initially read the petition as I say, I have a number of questions and I have already reached out to have some discussion on this, find out what the Town's position is legally speaking and so forth, but it seems to me that this is a series of questions that probably should not be here.

MR. PETRO: Let me just say one more time I'm going to repeat myself, whether or not you get to the same point to where I was legally, I don't know, I just said it made common sense to me just go through the process by the time you do all this bantering back and forth with Bloom and Bloom, you'd be over there with a shovel.

MR. KRIEGER: I agree with you and very possibly some of these questions that trouble me could be resolved by taking that very practical approach.

MR. MASON: It's the right thing to do, it's funded by us, the firehouse is private donations.

MR. PETRO: Tell the people across the street, don't say that's what we're doing, we're exempt. When I was growing up, my father always used this example, you've heard this. He would say go do that and I would say but why, he says because I told you so. You know what I wanted to do, the opposite, because I said so but that's not a reason and that's why I was trying to point out to them.

MR. KRIEGER: The problem is the people who live in proximity to the firehouse, if that approach is taken we're going to shove this down your throat, you have to do this, they're certainly at the very least their view of behavior of their government is not going to be a benign one, let me put it that way, they're going to take exception, certainly if it's done, it can't avoid, you can't avoid having it look bad if you do it without a public hearing and just say here you go, like it or lump it.

MR. PETRO: I don't think you're going to get anything from this board as a collective group to say that you're exempt, just do what you want to do. You're not going to get that opinion here, I think, anyway.

MR. KRIEGER: And that's what we're asking for.

MR. PETRO: I think they're just barking up the wrong tree but take care of it legally.

MR. LANDER: Let me ask you a question, when they came in, they came to us and find out if it's all right to move that pile of, hill of dirt.

MR. PETRO: Seven or eight years ago, we had a public hearing, it was an Article 78 brought against the Town for moving the dirt, it was stopped, it was very

complicated. And at that time, and I use this example all the time there was a hundred people in this room, 50 people for the firehouse and 50 people with Sid Weinheim (phonetic) and his people who lived on that road trying to stop it, I mean, eventually, they got it through with the DEC permit and some restrictions but it did happen but it was very drawn out and very heated.

MR. LANDER: The reason that they got it approved and they did move the hill because it was considered site grading.

MR. BABCOCK: Well, we did that in the beginning, that's what DEC came in as people asked and said no, you need a mining permit because of the number of yards.

MR. PETRO: We exceeded the number of yards. Don't put, Andy, you're going to work on this within the next few days, if they want to go on an agenda, we can do it, but I need to know whether they want to go on an agenda, you should say in your opinion if you come to that reasoning that they're not exempt and even if you're not sure, you should still maybe relay to Mr. Bloom the feeling of the board. Anybody thinks differently than me?

MR. KRIEGER: Well, let me propose to, I will at the next meeting of the board, I will come in and do a, and make a report of my findings, I will at that point contact Mr. Crotty, probably Mr. Bloom as well and do the necessary research, I will be able to, I have questions now, I will be able to have answers then.

MR. PETRO: What I'm saying if your findings come to the conclusion that they should come to the planning board, just relay that, you don't have to tell us at the next meeting, just do that. If it's something other than that, we should have another report. How's

that sound?

MR. KRIEGER: That sounds fine. All I'm saying that's fine for directional, I'm saying at this point for the board's edification, I will be prepared in two weeks to discuss this and discuss progress so when you ask me what's the story on this, you know.

MR. PETRO: I'm saying if they want to expedite and get on the next agenda as an application, we don't have a problem with that.

MR. EDSALL: One of the things you should ask them up front, ask them if the fire company is going to own the property and the building or if the fire district is going to own the property and the building, big difference.

MR. MASON: That's a good way to put it.

MR. EDSALL: One's a governmental district and one is a private volunteer fire company. They have to tell you which one it is.

MR. KRIEGER: Yes and that's exactly on point because they're arguing as I read the petition they're arguing that they're entitled to some intergovernmental exemption. Well, Mark points out it's exactly on point that argument will lie, may lie if it's the district. If it's the company, it's going to be a much more difficult argument to make so in terms of their being exempt--

MR. PETRO: All right, we know what we're doing. Any comments? Motion to adjourn.

MR. MASON: So moved.

MR. ARGENIO: Second it.

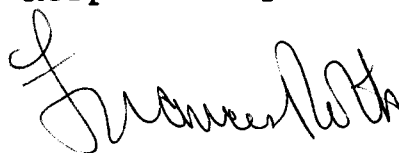
January 14, 2004

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ROLL CALL

MR. SCHLESINGER	AYE
MR. MASON	AYE
MR. LANDER	AYE
MR. ARGENIO	AYE
MR. PETRO	AYE

Respectfully Submitted By:



Frances Roth
Stenographer

1/28/04